

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency

P.O. Box 2415

Washington, DC 20013-2415

**Notice FC-36**

**For:** State and County Offices

**Implementation of Farm Bill Provisions Which Affect Loan Making**

**Approved by:** Deputy Administrator, Farm Credit Programs

*Lou Anne Kling*

**1 Overview**

**A**

**Background**

The Federal Agriculture Improvement and Reform Act of 1996 (1996 Act), which became law on April 4, 1996, included several revisions to the statute governing FSA farm credit programs.

The revisions impact many of the authorities and requirements for making and servicing FSA farm credit loans.

Certain provisions of the 1996 Act became effective on April 4, 1996; others are effective 90 days after enactment.

**B**

**Purpose**

This notice provides information on and instructions for implementing those provisions of the 1996 Act which modify loan making requirements and procedures, and are effective immediately.

A separate FC notice is being issued to address loan servicing and property management issues.

Regulations will be issued within 90 days to implement the remaining provisions of the 1996 Act.

**Disposal Date**

April 1, 1997

**Distribution**

State Offices; State Offices relay to County Offices

## 2 Statutory Changes

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### A

#### **Statutory Limitations on Direct Farm Ownership Loan Purposes**

Effective immediately, direct farm ownership loan funds cannot be used for the following purposes.

- Refinancing of Debts. Use of direct farm ownership loan funds for refinancing of debts, as set forth in FmHA Instruction 1943-A, section 1943.16(d), is no longer authorized.
  - Non-farm Enterprises. Use of direct farm ownership loan funds for any purpose related to a non-farm enterprise, as referenced in FmHA Instruction 1943-A, section 1943.16(a)(1), (b), (c), and (f), is no longer authorized. The portions of these paragraphs dealing with farm-related purposes are still operative.
  - Pollution Abatement. Use of direct farm ownership loan funds for pollution control, as referenced in FmHA Instruction 1943-A, 1943.16(b)(2) and (c), is no longer authorized. Soil and water conservation and protection remains an authorized farm ownership loan purpose.
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### B

#### **Statutory Limitations on Guaranteed Farm Ownership Loan Purposes**

Effective immediately, guaranteed farm ownership loan funds cannot be used for the following purposes.

- Non-farm Enterprises. Use of guaranteed farm ownership loan funds for any purpose related to a non-farm enterprise, as referenced in FmHA Instruction 1980-B, section 1980.180(c)(1), (2), (3), and (6), is no longer authorized.
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## 2 Statutory Changes (Continued)

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### B

#### Statutory Limitation of Guaranteed Farm Ownership Loan Purposes (Continued)

- Pollution Abatement. Use of guaranteed farm ownership loan funds for pollution control, as referenced in FmHA Instruction 1980-B, section 1980.180(c)(3) is no longer authorized. Soil and water conservation and protection remains an authorized farm ownership loan purpose.

**Important:** Use of guaranteed farm ownership loan funds for refinancing of debts, as specified in FmHA 1980-B, section 1980.180(c)(4), is **still authorized**.

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### C

#### Statutory Limitations on Direct Operating Loans

Effective immediately:

- annual production loans to delinquent borrowers, as set forth in FmHA Instruction 1941-A, section 1941.14, are no longer authorized and shall not be made
  - special beginning farmer or rancher operating loans, as set forth in FmHA Instruction 1941-A, section 1941.15, are no longer authorized and shall not be made.
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### D

#### Statutory Limitations on Guaranteed Operating Loans

Effective immediately, special beginning farmer or rancher operating loans, as set forth in FmHA Instruction 1980-B, section 1980.176, are no longer authorized and shall not be made.

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### E

#### Statutory Limitations on Emergency Loans

An emergency loan shall not be approved if the principal amount of the new loan, combined with the outstanding principal balance of any and all emergency loans the applicant or any individual member of an entity is liable for, will exceed \$500,000.

The provisions of FmHA Instruction 1945-D, section 1945.163(e), will now relate to the lesser of \$500,000 total indebtedness or the amount not in excess of the actual loss necessary to restore the farm to its pre-disaster condition.

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## 2 Statutory Changes (Continued)

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### F

#### **Statutory Limitations and Changes for All Loans**

A loan applicant who has had a farm loan debt forgiven or reduced through any form of debt settlement, a net recovery buy-out, bankruptcy, or payment of a guaranteed loan loss claim for any of these listed items (except a debt writedown), is not eligible for any direct or guaranteed loan.

A loan applicant who has received a debt write-down may receive a direct or guaranteed operating loan if:

- the applicant is otherwise eligible
- loan funds will only be used for annual operating purposes as set forth in FmHA Instruction 1941-A, section 1941.16(b) or FmHA Instruction 1980-B, section 1980.175(c)(1)(ii) or (c)(2).

The definition of veteran, as set forth in FmHA Instruction 1910-A, section 1910.10(a)(1) and FmHA Instruction 1980-B, section 1980.106(b), includes those who served in any war, up to and including the Persian Gulf war.

The linkage of CAT coverage and other FSA programs is still in effect. However, instead of obtaining at least the CAT level of insurance, a producer may provide a written waiver of eligibility for certain USDA emergency loss assistance in connection with the crops which are not insured.

**Note:** Additional guidance on waivers will be provided in a separate notice.

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## 3 Implementation

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### A

#### **Obligated Loans**

A loan obligated on or before April 4, 1996, for a purpose no longer authorized, or to an applicant no longer eligible as a result of the statutory changes outlined in this notice, may be closed subject to any conditions specified at the time of approval.

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### 3 Implementation (Continued)

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#### B

##### Loans Not Yet Obligated

Authorized Purposes. For those cases in which a loan or guarantee request which was not obligated on or before April 4, 1996, and a portion of the funds requested was for a purpose no longer authorized as a result of the statutory changes outlined in this notice, the responsible Ag Credit officer or manager will:

- notify the applicant or lender that the intended purpose is no longer authorized
- meet with the applicant or lender to determine whether a feasible plan can be developed, considering the new limitations on use of loan funds
- notify the applicant or lender of the final determination in accordance with applicable procedures.

If the proposed use of loan funds was for only one purpose, and that purpose is no longer authorized as a result of statutory changes outlined in this notice, the applicant or lender will be notified that the request is being rejected because the planned use of the loan funds is no longer authorized.

Program Eligibility. For those cases in which a loan or guarantee request which was not obligated on or before April 4, 1996, and the applicant is no longer eligible as a result of the statutory changes outlined in this notice, the applicant or lender will be notified that the request is being rejected because the applicant is not eligible for the assistance requested.

If a loan is denied based on planned use of loan funds or because the applicant or lender is no longer eligible, the applicant or lender will be notified that the decision is not appealable. However, the applicant or lender will be informed of the applicant's right to request a review of appealability by the NAD Director in accordance with 7 CFR 11.6.

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#### C

##### Contact

State Offices shall address questions regarding this notice to LMD, through the Area Office.

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